

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 94-664-T - ORDER NO. 95-1254 ✓
JUNE 20, 1995

IN RE: Application of The Great American) ORDER ON MOTION
Trolley Co., Inc., 350 Wesley Street,) TO QUASH OR
Suite 904, Myrtle Beach, SC 29577) MODIFY SUBPOENA
(mailing address - 821 Shunpike Road,) AND FOR
North Cape May, NJ 08204) to Amend) PROTECTIVE ORDER
Class A Certificate No. 1269.)

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of a Notice of Motion and Motion to Quash or Modify Subpoena and for Protective Order filed by Coastal Rapid Public Transit Authority ("CRPTA") in the above referenced proceeding.

On October 12, 1994, The Great American Trolley Co., Inc. ("Great American" or the "Applicant") filed with the Commission an application to amend its Certificate of Public Convenience and Necessity. Great American duly noticed its pending application, and CRPTA filed a Petition to Intervene in these proceedings.

On May 25, 1995, Great American mailed to CRPTA, by regular mail, a Notice of Deposition, a Deposition Notice Pursuant to Rule 30(B)(6) SCRCF, and a Subpoena Duces Tecum. On June 2, 1995, CRPTA served by regular U.S. Mail a Notice of Motion and Motion to Quash or Modify Subpoena and for Protective Order. CRPTA's Motion to Quash or Modify Subpoena gave ten (10) days notice of the Motion. Thereafter, on June 13, 1995, Great American made a return to the

Notice of Motion and Motion to Quash or Modify Subpoena and for Protective Order. Additionally, Great American made a Return to (CRPTA's) Petition to Intervene and Protest in this proceeding.

The hearing scheduled in this proceeding is set for Thursday, June 22, 1995, at 10:30 a.m. As of the date of this Order, the deposition noticed by Great American has not been taken, and the Commission finds it highly unlikely that the deposition will be conducted before the scheduled hearing. Therefore, the Commission believes and so finds that the Motion to Quash the Notice of Deposition of Elvin Tobin is for all practical purposes moot.

However, the Commission believes that the issues raised in the Notice of Deposition are likely to be asserted in the hearing. The Commission therefore believes and so finds that pursuant to the CRPTA's request for a Protective Order, it is in the best interests of the parties that the Commission address the issues raised by Great American's Notice of Deposition and Subpoena Duces Tecum in this proceeding.

First, Great American questions the standing of CRPTA to intervene in these proceedings. As discussed below, the Commission believes that CRPTA has standing to intervene in these proceedings. Further, the hearing set for June 22, 1995, concerns Great American's application to amend its current authority. The Commission finds CRPTA's certificate, or lack thereof, is not relevant to Great American's application. Therefore, CRPTA's request for a protective order is granted as to this issue.

Second, Great American asks about CRPTA's qualifications to operate as a regional transit authority. The Commission is

informed and believes that CRPTA is not a regional transit authority. The Commission points out that this proceeding concerns the Application of Great American, not CRPTA. Therefore, the Commission grants CRPTA's request for a protective Order as to this ground as the information sought is irrelevant to these proceedings.

Third, Great American requests information on the financial records of CRPTA relating to its income and expenses, especially related to salaries of corporate officers, board members, and employees. The Commission grants the request for a protective Order as to CRPTA's financial records. As this proceeding concerns the Application of Great American, CRPTA's financial records are not relevant to the proceeding.

Next, Great American seeks information concerning the history of service of all routes run by CRPTA in Horry County since CRPTA's inception, including but not limited to the average number of passengers, number of miles logged, passenger revenue, and continuity of service. The Commission believes that the information sought is relevant to these proceedings only as these questions pertain to the routes requested in Great American's Application. Therefore the Commission will allow Great American to pursue this line of questioning as to the routes which are the subject of this proceeding.

Finally, Great American notices "any and all grounds claimed by CRPTA for their Petition to Intervene and Protest" and " any and all matters which may pertain to CRPTA's Petition to Intervene and Protest." The Commission finds these statements broad and

ambiguous for which a definite reply cannot be made.

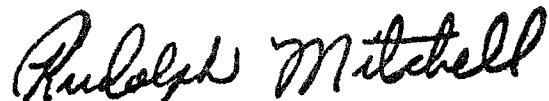
By letter dated June 13, 1995, Great American requested a subpoena duces tecum from the Commission's Executive Director pursuant to S.C. Code Regs. 103-850 (1976). The Commission's Executive Director issued a Subpoena Duces Tecum on June 19, 1995, and the language requested by Great American in the Commission issued Subpoena Duces Tecum is essentially the same language that is found in Great American's Notice of Deposition and Subpoena Duces Tecum. The protective aspects of this Order shall apply to the Subpoena issued by the Commission on June 19, 1995.

Finally, Great American filed a Return to The (CRPTA's) Petition to Intervene and Protest. Great American asserts that CRPTA lacks standing to intervene in these proceedings inasmuch as CRPTA does not have a current certificate of Public Convenience and Necessity, inasmuch as CRPTA does not have exclusive rights over the routes in the area in question, and inasmuch as Great American is not applying for any routes which CRPTA currently serves. Great American requests that CRPTA's Petition to Intervene and Protest be dismissed. The Commission has fully and carefully considered Great American's request for dismissal of CRPTA's Petition to Intervene and finds that Great American's request must be denied. The Commission is aware that CRPTA is operating in Horry and Georgetown Counties and is further aware that CRPTA has filed an Application for a Certificate of Public Convenience and Necessity. The Commission is also aware that some confusion has existed over the cancellation of CRPTA's previous Certificate of

Public Convenience and Necessity. While the Commission believes that CRPTA needs a Certificate of Public Convenience and Necessity, the Commission also believes that CRPTA has standing to participate in these proceedings. Therefore, the Commission denies Great American's request to dismiss CRPTA's Intervention.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)